

SECTION 44 SPECIAL EXCEPTIONS

44.01 PURPOSE

The development and execution of a comprehensive Zoning Code are based upon the division of the City into zones, with which the use of land and structures and the bulk and location of structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses and features which, because of the unique characteristics, cannot be distinctly classified or regulated in a particular zone or zones, without consideration in each case of the impact of such uses and features upon neighboring uses and the surrounding area compared with the public need for them in particular locations. Such uses and features are, therefore, treated as Special Exceptions.

44.02 REQUEST FOR SPECIAL EXCEPTIONS

Applications for the grant of Special Exceptions shall be filed with the Commission on forms provided therefore. The applicant shall submit plans and other data required in Section 44.03, and shall be consonant of the Commission's findings criteria in Section 44.04.

44.03 SUBMISSION REQUIREMENTS

Each application for a Special Exception shall be submitted to the Commission at least ten (10) days prior to a regularly scheduled meeting and shall be accompanied by such fee required to cover the cost of advertising and sending notices in connection with the application. The Applicant shall furnish as part of such application the following:

44.03.01 SITE PLAN

Site Plan as specified in Section 55.
Site Plan Approval Requirement.

44.04 FINDINGS

A Special Exception may be granted when the Commission makes findings on:

44.04.01 COMPLIANCE WITH CITY PLAN

The proposed use is consonant of the Plan of Development for physical development of the City, as embodied in the Zoning Code and in any Master Plan or portion thereof adopted by the Commission; and

44.04.02 ADVERSE EFFECTS

The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the

use or development of adjacent properties or the general neighborhood; and

44.04.03 VISIBILITY AND ACCESSIBILITY

The proposed use will not preempt frontage on a major highway in such a manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use which is oriented to the same highway; and

44.04.04 TRAFFIC MOVEMENT

The proposed use will not impair the movement of through traffic along the adjoining thoroughfare through congestion and reduction of street capacities or through storage or back up of vehicles in the public right-of-way while awaiting service on the subject site; and

44.04.05 ORDERLY DEVELOPMENT

The proposed use will not result in a fragmentation of the development pattern, thereby creating unnecessary additional points of vehicular conflict with the adjoining highway and adversely affecting the orderly development of surrounding neighborhoods; and

44.04.06 PROPERTY VALUES AND CHARACTER

The proposed use will not tend to depreciate property values and the character and extent of development of adjoining properties; and

44.04.07 PARKING AND LOADING

The proposed use will provide off-street parking and loading facilities in accordance with Section 40 of the Zoning Code; and

44.04.08 COMPLIANCE WITH STANDARDS

The proposed use will meet all the standards set forth herein and set forth in Section 44.08 of the Zoning Code for the type of Special Exception being requested.

44.05 PUBLIC HEARING

The Commission shall hold a Public Hearing in accordance with the requirements of the General Statutes and those of Section 48.03.05, Zoning Application Signs.

44.06 COMMISSION ACTION

The Commission shall act of applications in accordance with the General Statutes.

44.06.01 TIME LIMITATIONS

A Special Exception shall be valid for a period of one (1) year, unless a longer time period is specifically established herein. The

authorized activity must start during the time period as indicated by the granting of a building permit if building(s) are involved. Such exception shall continue in force and in effect if a building permit for such erection or alteration is started within said period. A renewal of said exception may be granted for one (1) additional time period, equal to the original, without a complete new application or public hearing provided the Commission finds that all requirements continue to be met. However, the Commission shall show in its record that it has reviewed an application for renewal of the specified Special Exception and that all appropriate provisions and findings are reaffirmed. (Amended eff. 5/1/86)

44.07 VIOLETION OF SPECIAL EXCEPTIONS

Whenever the Commission shall find, in the case of any Special Exception heretofore or hereafter granted pursuant to the provisions of this section, that any of the terms, conditions or restriction upon which such permit was granted are not being complied with, the Commission may rescind and revoke such permit after giving due notice to all parties concerned. Violation of Special Exception shall constitute a violation of the Zoning Code.

44.07.01 TERMINATION OF GRANTED SPECIAL EXCEPTION USE

In the event a Special Exception land-use is terminated and a proposed new use is not "use by right" as currently zoned, application may be made to the Commission for approval of a substitute use for the facility. In its evaluation, the Commission may hold a public hearing and shall consider the similarity of the proposed new use to the terminated Special Exception use.

44.08 STANDARDS FOR SPECIAL EXCEPTION

A petition for use of property subject to standards set forth herein shall be filed in accordance with the provisions of Section 44.02 and shall be subject to approval by the Commission unless specifically specified otherwise.

44.08.01 AMBULANCE SERVICE

Ambulance service uses are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder:

- A. No advertising or signs containing more than two (2) square feet in size shall be maintained on the premises where such ambulance service is being conducted or be attached to, or painted on the building in which such service is conducted.

- B. The outward appearance of such building shall be substantially in conformity to the general characteristics of the surrounding neighborhood.
- C. The nature and development of surrounding property; the proximity of churches, schools, hospitals, public buildings, or other places of public gatherings, the sufficiency in number of other such services in the City of Middletown; the health, safety and general welfare of the people should be considered.

44.08.02

CHILDCARE FACILITIES

Childcare facilities are permitted subject to the regulations of the zone in which they are located and in addition to the conditions hereunder.

- A. Provide at least thirty-five (35) square feet of interior play space per child;
- B. Provide at least one hundred (100) square feet of exterior play space per child;
- C. Noise and all other possible disturbing aspects connected with the operation of such use shall be enclosed, screened or otherwise controlled to the extent that the operation of any such use shall not unduly interfere with the use of properties or streets in the surrounding area;
- D. School buses shall be garaged or stored in an enclosed area, properly screened and to the rear of the main building only;
- E. There shall be buffering between outdoor play areas and parking adjacent to industrial or commercial uses;
- F. A childcare facility may include a residential unit for the owners/operators own use. (addition effective 2/1/85)

44.08.03

EDUCATIONAL PUBLISHING ORGANIZATION USES

Educational Publishing Organization Uses are permitted subject to the regulations of the zone in which they are located, in addition to the conditions hereunder:

- A. Operations are primarily editorial and administrative in its character;

- B. Operations shall not be used for final production or manufacturing of finished products, printed or otherwise, or as a retail outlet for any products.
- C. Operations shall not produce any activities which would create any noise or nuisance at any time;
- D. That the location for educational publishing organization uses are located to conform to the following minimum requirements:

LOT AREA: Five (5) acres;

YARDS: One hundred (100) feet in the front yard; side yards shall each be seventy-five (75) feet; rear yard one hundred (100) feet.

44.08.04 FRATERNITY AND SORORITY USES

Fraternity and Sorority uses are permitted subject to the regulations of the zone in which they are located:

- A. That the maximum density shall not exceed thirty-five (35) persons per acre.
- B. That the location for fraternity and sorority uses are located to conform to the following minimum requirements:

LOT AREA: Twenty thousand (20,000) square feet;

YARDS: Forty (40) feet from the front property lines; the Side yard twenty-five (25) feet; rear yard, twenty-five (25) feet.

44.08.05 GOLF COURSE, COUNTRY CLUB, PRIVATE CLUB, SERVICE ORGANIZATION, INCLUDING COMMUNITY BUILDING AND SIMILAR RECREATIONAL USES

Privately owned and/or operated, are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder;

- A. That the proposed use will not constitute a nuisance because of noise, traffic, number of people or type of physical activity.
- B. That the only provision for food, refreshment and/or entertainment is for club members and their guests.

44.08.06 HOSPITAL AND MEDICAL AND DENTAL CLINIC USES

- A. The location of the facility shall be compatible with the neighborhood in terms of traffic, noise, and number of patients/clients cared for. The facility shall also be compatible with its setting in scale, material and design.

- B. That the site location for hospital, medical and dental clinic uses are located to conform to the following requirements:

HOSPITAL

- LOT AREA: Five (5) acres;
FRONTAGE: Two hundred (200) feet;
YARDS: Fifty (50) feet from the front property line; each side yard shall be three (3) times the height of the tallest building located on the lot which is proximate to the side yard, but no less than seventy-five (75) feet; rear yard – one hundred (100) feet.

MEDICAL AND DENTAL CLINIC

- LOT AREA: Forty thousand (40,000) square feet;
FRONTAGE: Two hundred (200) feet;
YARDS: Forty (40) feet from the front property line; the side yard shall be two (2) times the height of the main buildings but not less than fifty (50) feet; rear yard fifty (50) feet.

44.08.07 HOUSING FOR ELDERLY OR PHYSICALLY HANDICAPPED PERSONS USES

are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder:

- A. That the maximum density shall not exceed thirty-five (35) persons per acre:
- B. That the location for housing for elderly or physically handicapped person uses are located to conform to the following minimum requirements:
YARDS: The side yard twenty (20) feet; rear yard twenty (20) feet;
- C. Storage of a stock in trade or sale of commodities on the premises shall not be permitted;
- D. That no name plate or sign shall exceed one hundred (100) square inches in area.

44.08.08 PROFESSIONAL AND BUSINESS OFFICE USES

- A. Professional and business office uses shall be limited to accountants, architects, engineers, dentists, physicians, podiatrists, chiropractors, lawyers, real estate and insurance agents, psychologists, osteopaths, surveyors and office business machine sales/service facilities. (Amended effective 2/28/95)

44.08.09 NEIGHBORHOOD STORE USES

are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder:

- A. A neighborhood store shall provide only limited convenience goods and services, such as groceries and related goods; baked goods, drugs or cosmetics; barber or beautician services; self-service laundry (which is closed between the hours of 10 PM to 7 AM); tailoring, shoe repair; tobacco or news; and accessory uses, customarily incidental thereto shall occupy no more than twenty-five (25) percent of the gross floor area of the establishment;
- B. The Commission shall find that space for such use is not available in nearby areas which are zoned for business, and that such new use or expansion of an existing use is necessary to serve the immediate neighborhood adequately with convenience goods or services; hereinabove described, giving due consideration, among other things, to the character of the neighborhood, the density of development, the shopping habits of neighborhood residents, and the availability of public and private transportation. The clustering of two or more uses of diverse types, rather than scattering of such uses, shall generally be regarded as an advantage, but the existence of a use of the same type as one which is proposed shall require a more extensive showing of necessity for the proposed use. As a general rule, clustering of uses shall not exceed ten thousand (10,000) square feet of net floor area for all uses in a cluster;
- C. The net floor area used for sales or other business purposes in any establishment (excluding space used for storage and similar purposes) shall not exceed one thousand five hundred (1,500) square feet;
- D. Business shall be conducted, including storage of goods, materials or equipment in a fully enclosed building;
- E. That no name plate or sign shall exceed one hundred (100) square inches in area;
- F. Establishment of the "drive-in" type, offering goods or services directly to customers waiting in parked vehicles shall not be permitted.

44.08.10 NATURAL RESOURCE EXTRACTION

A. PURPOSE OF REGULATIONS

To provide for (1) safe and orderly surface extraction of natural resources including; topsoil; peat; sand; gravel; clay; stone; ores; metals and minerals and (2) to provide a mechanism to assure the application of Code requirements related to the "Soil Erosion and Sediment Control Act" for land uses that have no actual

construction involved and (3) for the reclamation, or restoring, of the land after extraction has taken place. (Note: See Sec. 10.09 Environmental Responsibility in the Zoning Code for P.A. 83-388 "Soil Erosion and Sediment Control Act.)

B. APPROVAL REQUIRED

No extraction shall be undertaken, unless herein specifically exempted, until approval of the Commission has been given.

C. EXCEPTIONS TO THESE REGULATIONS

Activities involving the removal or extraction of surplus topsoil, peat, sand or gravel for legitimate agriculture, construction or landscaping operations need not comply with the provisions of this section.

D. EXTRACTION LEGALLY UNDERWAY AT TIME OF THESE REGULATIONS

Operations involving natural resource removal legally in existence at the time of passage of these regulations may continue for a maximum period of one year. During that time, application for Commission approval shall be made following these regulations. Operations for which approval application is not made and received shall be in violation of this Code.

E. PROCEDURE

The extraction proponent shall file an application to the Commission including required fee and compliance assurance. The Commission shall hold a public hearing on the application following procedures set forth in the General Statutes.

F. APPLICATION

Twenty (20) identical copies of an application shall be submitted consisting of text and graphic material setting forth the proposal for extraction and reclamation, in terms of criteria set forth herein, for a proposed operating site. Each non-contiguous proposed operating site requires a separate application.

Graphic material shall include maps, which meet the specifications of Section 55 Site Plan Approval Requirements of this Code and other information required in these regulations. The site shall be shown on the City's map titled, "Topography Map of the City of Middletown, CT Showing Drainage Systems and Inland Wetlands Superimposed" at the scale of 1" = 100', date of photography April 17, 1980, or a later revision.

If necessary, the contours shown in the City Map shall be corrected to reflect the current status from a field survey made by a CT registered land surveyor. The property boundary shall be drawn to the accuracy of Class A-2 as recommended by the Connecticut Association of Land Surveyors, Inc. as stated in that organization's most recent publication.

Photographs may be included, both vertical and oblique, annotated to show significant information.

The graphic presentation shall clearly show the conditions which exist at the time of an application including water course and impoundments, roads, buildings, wells, and construction, utility lines and right-of-ways and areas intended to be disturbed outlined in acre units. The proposal for reclamation, or restoring of, and land after extraction has taken place shall be clearly shown. Information may be shown on separate maps for clarity, if necessary.

The ownership of all parcels proposed to be involved in extraction and the ownership of all contiguous parcels shall be shown.

G. CRITERIA DURING EXTRACTION

- (a) At no time shall resource removal take place nearer than fifty (50) feet to a street line or a perimeter property line except where the existing grade is above the grade of the abutting street or property.
- (b) No physical damage shall be inflicted to adjacent public or private property.
- (c) Proper drainage shall be maintained throughout the project area during the entire operation.
- (d) Excavations of more than six feet in depth within a 1,000 foot distance of a residence shall be fenced with woven wire or similar material not less than four (4) feet high.
- (e) Roads, storage areas and yards within 500 feet of a residence or public street shall be paved, treated or watered so as to minimize dust. Access routes over public streets to excavation areas shall be selected to minimize intrusion into residential neighborhoods.
- (f) Equipment used in an extraction area shall be maintained and operated in such a manner as to minimize noise, vibration, smoke and dust.

- (g) No waste products or process residues from an extraction area shall be disposed of in any stream or other natural drainage system without proper approved treatment.
- (h) Overburden shall be stockpiled in rows or concentrated piles and stabilized in an acceptable manner so that it does not become a source of dust beyond the applicant's property.
- (i) No overhanging banks shall be created during the extraction process.
- (j) No stone crusher or other machinery not required for actual extraction shall be used except in an Industrial Zone.

H. CRITERIA FOR RECLAMATION

Disturbed areas shall be reworked and graded to a rolling topography with no slope greater than two feet horizontally to one foot vertically and conditioned to make suitable for productive use including forestry, grazing, cropping, wildlife, recreation and building sites according to an approved reclamation plan which shall include placement of vegetation species as practical as determined with the aid of the Soil Conservation Service.

The process of reclamation shall proceed concurrently where feasible or immediately following the completion of the extraction activity in an orderly manner.

I. COMPLIANCE ASSURANCE

Approval shall not become effective until the applicant has provided a surety bond of \$5,000 for each acre, or portion of an acre, of land to be disturbed by extraction or storage of soil or rock material. This bond shall be issued by a company located in Connecticut. The bond shall guarantee to the City of Middletown, as determined by the Commission that upon termination of the extraction operation the surface of land shall be restored in conformity with the approved reclamation plan. Upon such satisfactory reclamation, as approved by the Commission, the bond shall be released to the applicant.

Any required report or the extension of a project approval period shall include assurance that any required bond is still in effect. The insurance company shall notify the City of Middletown in the event a surety bond is terminated for any reason other than Commission approval.

J. BASIS FOR APPROVAL OR DENIAL OF APPLICATION

The Commission may approve an application upon finding that: (a) the requirements of the regulations set forth herein will not be

violated by the proposed operation; (b) the applicant shall correct any and all violations and incomplete work remaining from any prior authorized activities.

In its evaluation of an application, the Commission may consult with persons and/or agencies with specialized knowledge or authority in the field of natural resource removal and the restoration, reclaiming the reuse of area disturbed by such removal.

K. APPROVAL TIME PERIOD

(a) Approval for extraction of natural resources may be granted for a length of time not to exceed two years.

(b) Upon application of the petitioner extension of an approval period may be granted for one additional time period, equal to the original, without a complete new application by the petitioner.

L. APPLICATION FEE

Application fee shall be \$100.00 multiplied by the number of acres, to the nearest whole acre, proposed to be disturbed by extraction or storage of soil or rock material as established for Compliance Assurance for up to ten (10) acres. The fee for areas beyond ten acres shall be \$50.00 per acre up to twenty acres. The fee for more than twenty (20) acres shall be \$25.00 per acre.

The application fee shall be for the time approval period established and each application or extension shall require a separate fee.

44.08.11

PUBLIC UTILITY BUILDINGS AND STRUCTURES

- A. The proposed facility is needed to provide service to the public.
- B. The facility and its accessory elements shall be sited in accordance with the regulations of the zone in which it is located or as modified to minimize any adverse impact on the existing community in which the facility is proposed to be located.
- C. Facilities included in the Public Utility Buildings and Structures category include: buildings for housing of switching equipment; parking and enclosures for service vehicles; indoor and outdoor storage areas for equipment and material; buildings for personnel offices related to the utility services being provided by the installation and related off-street parking.

The above use is permitted in all zones as a Special Exception Use in Item 60.02.11. (Effective 1/25/89)

44.08.12 DRIVE-UP FACILITIES

Drive up banks and car wash facilities require off-street approach lane of 200 feet for each teller window or wash stand not to conflict with parking spaces.

44.08.12A DRIVE-THROUGH BUSINESSES

Drive-through businesses shall be permitted by special permit in every zone only if each of the following conditions are satisfied:

- (1) There shall be an off-street approach lane of 200 feet for drive-through facilities which shall not conflict with parking spaces;
- (2) There shall be adequate internal and external traffic circulation in order to promote traffic safety. In determining the adequacy of the circulation, the Commission may consider the number of curb cuts and the orderly flow of traffic entering and exiting the site. With respect to corner lots, the exit of the site shall be located on the less busy or secondary street and at least 100 feet from the intersection. If the lot has frontage only on one street then the applicant shall make road improvements, as deemed necessary by the Commission, to promote the safe exiting of vehicles; and
- (3) Minimum lot area: one acre;
- (4) Minimum lot width: 150 feet
- (5) The site plan shall contain suitable landscaping which shall include maintenance of a suitably landscaped area between the drive-through business and any contiguous lot in a residential zone.

(Section added effective 3/15/2003)

44.08.13 GASOLINE FILLING STATIONS

1. The location of a gasoline filling station shall be subject to the approval of the Planning and Zoning Commission and the use of said gas filling station is limited to the retail sale of motor fuels, lubricants and other motor vehicle supplies and parts. The permitted use is further limited to minor repairs and service activities, excluding body and fender work and repairs or limited repairs as specified in Section 14-51, Chapter 246 of the General Statutes. Accessory parking and storage of motor vehicles is hereinafter limited.
2. No more than one motor vehicle for every 1,000 square feet of lot area shall be stored outside at any time, and there shall be no outdoor storage of partially dismantled or wrecked motor vehicles.

The Planning and Zoning Commission may also limit the amount of overnight parking and require suitable fencing to protect surrounding properties.

3. The site of a gasoline filling station shall have frontage of at least 150 feet on a public street and shall have a depth of at least 100 feet, except where larger dimensions are set forth for the particular zone the proposed site is located in. Gasoline filling stations designed to serve trucks larger than five ton capacity shall have a lot width of at least 300 feet.
4. Fuel pumps shall be set back from the street line at least 25 feet. All other buildings and structures, except underground storage tanks, shall be set back at least 45 feet from the street line, ten feet from each side line, and 20 feet from the rear lot line, unless larger front or side yards are required in the particular zone the proposed site is located in. All buildings and structures shall be set back at least 50 feet from the side lot line of a contiguous lot in a residential zone. A suitably landscaped area at least 10 feet wide or 6 feet high, stockade type wooden fence, with finished side facing any residential zone shall be maintained between a gasoline filling station and a contiguous lot in a residential zone. Such landscaping or fencing shall not be located closer than 10 feet to the street line. Maximum building coverage shall be limited to 50% of the site area.
5. There shall be not more than one driveway for each 50 feet of street frontage. Such driveways shall not be more than 35 feet wide, and not less than 20 feet wide at the curb line; shall be no closer together than 15 feet at the curb line and shall be at least 20 feet from any intersection of public streets. All driveways, parking or standing areas shall be permanently improved with a paved surface.
6. Storage tanks for gasoline or other motor vehicle fuels shall be located underground in compliance with pertinent local and State codes and regulations.
7. A gasoline filling station shall be no closer than 500 feet from any building or place of public assembly such as a church, hospital, library, school, community house, playground or theater, provided, however, that this standard shall not apply if the gasoline station shall have been established prior to any such place of assembly. No gasoline filling station shall be erected near any building or premises used for such purposes on any part of any lot used or proposed to be used for the within stated purposes. There shall be no outdoor display of motor vehicle accessories, tires, or any other

merchandise, except that motor oil for servicing motor vehicles on the premises may be displayed on racks, designed therefore, immediately adjacent to the service station building or the filling pumps. There shall be no dumping of waste materials, such as grease or oil, except in a closed underground receptacle at a place and of a design approved by the Planning and Zoning Commission. Debris and trash shall be deposited in receptacles maintained therefore.

8. There shall be no residence or sleeping quarters maintained in any gasoline filling station.
9. The use of pennants, streamers or other moving eye-catching devices shall be prohibited except in the cases of the opening of a new station, the reopening of a station that has been closed for a period of thirty days or more, or a change in a station's major dealer or supplier, and then only for a period not to exceed 30 days and after issuance of a permit by the Zoning Enforcement Officer. The sign provisions of Section 48 shall apply except that small credit card, direction, telephone or similar public convenience signs shall not count towards the permitted sign area.
10. As an accessory use the limited sale of retail, convenience items shall be permitted at a gasoline filling station, subject to the following conditions:
 - a. All foods sold shall be pre-packaged and there shall be no food preparation on-site, with the exception of beverages, which may be prepared subject to the approval of the Health Department.
 - b. As an accessory use, a maximum of 500 square feet of space may be utilized for the display of retail merchandise within the station and retail, convenience merchandise shall not be displayed or advertised outside the filling station building.
 - c. A minimum of three accessory parking spaces shall also be provided. Said spaces shall be in addition to the pump areas and shall be for the convenience of patrons.
11. As an accessory use to a gasoline filling station, an unattended car wash shall be permitted, subject to approval of a Special Exception by the Planning and Zoning Commission and to the following conditions and standards:

- a. The car wash shall be limited to one bay with a maximum of four coin-operated vacuums.
- b. The car wash shall be equipped to recycle water to minimize the use of water and equipped with water treatment facilities.
- c. All wastewater, after treatment, shall be discharged into a sanitary sewer system.
- d. The property shall have a water supply sufficient to support the car wash.
- e. There shall be sufficient unmarked stacking or queuing spaces in front of the entrance of the carwash facility, which do not interfere with on-site traffic flow. There shall be a sufficient length of driveway space between the car wash exit and any point of internal traffic circulation on the premises.
- f. The car wash shall be equipped with a drain system in the car wash exit driveway to maximize capture of water drip off from washed vehicles.
- g. The applicant shall demonstrate to the satisfaction of the Commission that lighting, buffer areas, noise levels, environmental controls including waste water recycling, sludge and sediment handling, and internal vehicular circulation shall be adequately provided for and/or controlled, and that there are no adverse traffic impacts on public roads, to ensure conformance with the standards applicable to special exception uses. (Section amended effective 3/1/98)

44.8.14

PERMANENT YEAR ROUND FARM MARKETS

may be approved by the Commission provided they meet all of the following conditions:

- 1) The market shall be on the premises of, and accessory to, an active farm of at least 20 acres, which abuts a state highway.
- 2) At least 50% of the products sold each year, based on gross dollar sales, shall be grown or produced on the premises where the market is located or elsewhere in Middletown or immediately surrounding areas except in case of weather conditions due to an act of god.
- 3) Products and services which may be sold shall include dairy and food products primarily from products grown or produced on the premises or elsewhere in Middletown or immediately surrounding areas; farm bakery products; coffee service station, cider, juices and soda; vegetables, fruits; flowers; seasonal farm products (such as honey, maple syrup, jams, dried fruits and candy); seasonal crafts (such as wreaths, baskets, ornaments, flower pots); pick your own vegetables and fruits; pre-cut Christmas trees, and horticultural supplies.
- 4) Accessory uses shall include greenhouses, hay rides, farm animal petting zoo, and farm and craft related seminars.
- 5) Buildings shall meet yard requirements of the zone.
- 6) Adequate off street parking shall be provided but in no event less than one (1) space for each 300 square feet of gross building area of the market.
- 7) The market shall be located either within an existing farm structure or a separate rural, farm-like structure compatible with the neighborhood.

(Section adopted effective 6/1/01)

44.08.15 ELEEMOSYNARY AND PHILANTHROPIC INSTITUTIONS, subject to the following minimum area, frontage and setback requirements:

- A. Total Area: 25,000 square feet
- B. Frontage: 150 feet
- C. Yards: 35 feet from the front property line;

Each side yard shall be two (2) times the height of the tallest institutional building located on the lot, which is proximate to the side yard and the rear yard shall be forty (40) feet.

44.08.16 JUNKYARDS AND BUILDING MATERIALS SALVAGE YARDS, subject to the following regulations:

- A. Shall be located on a site not less than one (1) acre;
- B. Be enclosed by wall of brick, stone or other suitable material as determined by the Board, not less than eight (8) feet in height.
- C. The front wall shall be located on the building line but not less than twenty-five (25) feet from the front lot line;
- D. The front yard shall be open and unobstructed except for the off-street parking of private automobiles only.

44.08.17 MOTEL, TOURIST COURT AND AUTO LODGE, subject to the following regulations:

- A. Not more than twenty-five (25) percent of the net area of the lot may be covered by buildings.
- B. All parking areas and driveways shall be paved with concrete or asphaltic surfacing;
- C. Shall not have dwelling units closer to the highway right-of-way than fifty (50) feet;
- D. Shall not permit more than ten (10) percent permanent occupancy;
- E. Shall comply with all area and yard requirements prescribed for such uses in the zone in which located;
- F. No vehicular entrance to, or exit from any motel, or motor hotel, wherever such may be located, shall be within two hundred (200) feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or another street which the premises in question do not abut;

- G. All areas not used for access, parking, circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition;
- H. Any enlargement or extension to any existing motel or motor hotel shall require application for a Zoning Certificate, as if it were a new establishment.

44.08.18 READY-MIXED CONCRETE PLANT, subject to the following regulations:

- A. Shall be located on a site not less than one (1) acre;
- B. The plant shall not be located less than two hundred (200) feet from a residential use nor less than one hundred (100) feet from any other uses;
- C. All materials shall be so enclosed as to eliminate air pollution beyond the limits of the lot on which the operation is located;
- D. The front wall or fence shall be located on the building line but not less than twenty-five (25) feet from the front yard shall be open and unobstructed, except for the off-street parking of private automobiles only.

44.08.19 RESTAURANT OR LUNCHROOM, subject to the following conditions:

- A. It shall be clearly demonstrated by the Applicant, that such use is necessary for the service and convenience of the employees of the industrial zone in which it is located; is designed primarily for the service of employees in the zone, and will not constitute a nuisance to uses in the zone or any adjacent zone because of the generation of traffic, noise, odor or other factors;
- B. Business shall be limited to the dispensing of food, normally associated with lunchrooms;
- C. Each lunchroom, together with the principal use of the lot, shall be located in a lot having a minimum of two hundred (200) foot frontage on a primary industrial road, arterial road, or major highway and shall be conveniently and centrally located in relation to the industrial area intended to be served.

- D. No lunchroom in the zone shall be located within two hundred (200) feet of any residential zone;
- E. No curb service or service through outside windows shall be permitted.

44.08.20 TAXI CAB STAND, subject to the following regulations:

- A. All parking areas and driveways shall be paved with concrete or asphaltic surfacing;
- B. Shall have ingress and egress driveways and shall not permit backing onto adjacent roadways;
- C. Shall park vehicles and operate entirely within said lot;
- D. No servicing of taxicabs shall be permitted on the premises such as dispensing gasoline, oil, etc.

44.08.21 MULTI-FAMILY DWELLINGS CONTAINING THREE (3) OR MORE DWELLING UNITS, subject to the following regulations:

- A. Streets shall be so designed as to discourage through traffic on the site.
- B. Parking spaces shall be within one hundred fifty (150) feet of any commonly used entrance way for such dwelling units.
- C. Buildings shall be so designed as to avoid monotonous patterns of construction or repetitive spaces or modules between buildings.
- D. Access and circulation ways shall be designed to permit fire fighting equipment, furniture moving vans, fuel trucks, refuse collection, deliveries and snow removal to operate in a safe and efficient manner.
- E. The Commission may require the street system to connect two (2) or more existing abutting streets in order to provide for a safe and efficient area circulation system except where topography or other physical considerations do not permit such streets or where such street connections would adversely affect the area.
- F. Usable open space (as defined in Item 16.21.01) shall be provided at the ratio of 400 square feet for each bedroom in the project or each unit without separate bedrooms. The open space shall be in a square configuration. The open space shall be equipped with

recreational equipment specifically related to the proposal occupancy of the units, i.e. benches, game tables, sand boxes, swings, climbing apparatus, etc.

- G. Structures existing prior to 1976 may be converted to multi-family dwellings without providing the open space required for new structures.
- H. For any proposed development over fifty (50) dwelling units feasibility information shall be submitted citing the need for the proposed development in terms of the housing supply and estimated demand. Information submitted shall include:
 - (a) The proposed rental schedule
 - (b) The income levels of proposed occupants.
- I. Parking arrangement as required in Section 40.

44.08.22

CONVERSION OF EXISTING RESIDENTIAL BUILDING TO A DIFFERENT NUMBER OF DWELLING UNITS

- A. In addition to site plan requirements specified elsewhere in this Code the applicant shall submit preliminary drawings, prepared by a registered architect, showing the building plans and elevations as currently existing and as proposed after conversion.
- B. Off-street parking shall be provided in accordance with Section 40 of this Code as per specific spaces required for Urban Living Units.
- C. Requirements of the zone in which the building is located may be waived by the Commission if not specifically included herein above.
- D. Any proposed new addition to be constructed as part of the conversion proposal shall be limited to twenty-five (25%) percent of the gross floor area of the old existing building.

44.08.23

ALCOHOLIC LIQUOR ESTABLISHMENTS

Are special permit uses in the B-1, B-2, and NPC zones subject to all regulations of those zones and:

- A. Building and site shall meet criteria of the Connecticut Liquor Control Commission.
- B. The entrance to the building shall be not less than fifteen hundred feet, measured in a direct line, from the entrance of any other seller alcoholic liquors as defined in Section 16.01.04.

(Amended effective 8/25/05)

- 44.08.24 AUTOMOBILE, TRUCK, TRAILER, FARM IMPLEMENTS AND SIMILAR AUTOMOTIVE EQUIPMENT SALES, NEW AND USED, and closely associated service facilities as part of the sales operation may be a permitted use in an I-2 Zone under the following conditions:
- A. Site shall front on and have direct access to, a State Highway
 - B. Lot area shall be one acre or more.
 - C. Lot frontage shall be two hundred (200) feet or more.
- 44.08.25 BUSTOP PASSENGER SHELTERS
- (1) Shall be proposed by the Middletown Transit District
 - (2) Shall not include any signs not directly related to the bus system unless located in a zone, which permits outdoor advertising signs.
- 44.08.26 HISTORIC AND/OR ARCHITECTURAL PRESERVATION SITE AND STRUCTURES
- A. The site, building or structure proposed shall be included in the Middletown Survey of Historical and Architectural Resources conducted by the Greater Middletown Trust, date 1979, as either inventoried or notable buildings. (Effective 8/1/84). Other buildings and structures may apply under this section provided that it is determined by the Greater Middletown Preservation Trust, or another qualified professional selected by the Commission, that the building meets the survey criteria and that the proposed reuse is compatible with the historic character and fabric of the building. (Amended effective 10/15/90)
 - B. Permitted use of a site and structure shall be with the physical characteristics and originally designed use of the structure: i.e. a structure designed for a residence may be used as an office.
 - C. A written agreement shall be filed with the Commission stipulating that the exterior of the structure and the site will be restored and maintained in accordance with the historic time period the structure is identified.
 - D. In the event the proposed historic preservation structure is located in a fire district with which its materials of construction are incompatible application, via the Commission, shall be made to the legislative body to change the boundaries of the fire district so that the Historic Preservation Zone is designated as

outside fire limits in terms of the State Building Code. The proposed Historic Preservation structure shall not be less than thirty (30) feet from any structure in a contiguous fire district.

- E. Off-street parking requirements for architecturally and historically significant buildings with adaptive uses may be modified when a proponent can show (a) needed off-street parking is or could be available in the vicinity and; (b) the economic feasibility of the project depends on the waiving of some or all of the off-street parking requirements.
- F. All proposals under this category shall submit a narrative, and for major projects architectural renderings, explaining how the applicant intends to renovate and preserve the historic façade and overall historic character of the building. All proposals may be referred to the Middletown Preservation Board for review and comment. The Preservation Boards comments shall be purely advisory. (Added effective 10\23\91)

44.08.27

REAR LOTS

are a Special Exception use provided that the applicant shall prove to the satisfaction of the Commission that the land characteristics and physical site conditions make such rear lot development practical, reasonable and desirable; and that such rear lot development will be in harmony with the purpose and intent of the Plan of Development and will comply with all applicable codes, regulations, and ordinances and shall meet the following specific requirements:

- A. Be located in a R-45 or R-60 residential zone.
(Amended effective 6/13/03)
- B. Be used only for a single family residence.
- C. Not less in area than twice the required size of a lot for the zone the proposed rear lot is located in except that no rear lot must be greater than 80,000 square feet.
- D. An access strip, in the same ownership as the rear lot, shall have a width not less than twenty-five feet on a City street.

- E. Not be separated from a City street by more than the depth of one front lot which is not less than the size of a lot required by the Code.
- F. The shape shall be that a rectangle the required size of a front lot shall generally fit within the proposed rear lot configuration.
- G. For building yard requirements the property line closest to the City street from which access is obtained, not including the access strip, shall be designated as the front line.
- H. Set-back requirements shall be twice those required in the zone for standard lots.
- I. There shall not be more than two access strips adjacent to each other.
- J. No non-conforming lot shall be created as a result of a proposed rear lot particularly in terms of remaining city street frontage and area.
- K. Dwellings shall be connected to city water and sewer facilities, when constructed, if those facilities are not available the Department of Health must approve the proposed lot for an on-site well and septic system prior to the lots approval by the Commission.
- L. The grade of the access strip shall not be more than four percent for a distance of fifty feet from the City street.
- M. Electric and other utility service lines shall be placed underground if they are underground along the street.

44.08.28

TWO (2) FAMILY OR SINGLE FAMILY DWELLINGS ON LOTS OF RECORD IN AN RPZ ZONE

- (a) A two (2) family dwelling may be constructed on any lot of record in an RPZ zone provided that:
 - A) The lot has a frontage of at least fifty (50) feet. (Revised 11/1/88)
 - B) The lot has an area of at least 7500 square feet.

- C) The lot is served by City water and sewer.
- (b) Where the applicant shall prove to the satisfaction of the Commission that the land characteristics and physical site conditions make such development practical, reasonable and desirable and such development will be in harmony with the purpose and intent of the Plan of Development and shall comply with all other applicable codes, regulations and ordinances, the Commission may approve two (2) family or single family dwellings on any lot of record in an RPZ zone having no frontage or less than fifty (50) feet of frontage, provided that:
- A) The lot has an area of at least 7500 square feet.
 - B) The lot is served by City water and sewer.
 - C) If the lot has no frontage on a public street, it shall have a permanent recorded easement at least 25 feet in width which provides unrestricted access by foot and by vehicle to a public street.
 - D) In no event shall any such lot have less than 25 feet of frontage on a public street or, in lieu thereof, a 25 foot permanent recorded easement providing unrestricted access by foot and by vehicle to a public street. (Amended effective 6\30\92)

44.08.29

CARE\NURSING HOME USES

- A. The location of the facility shall be compatible with the neighborhood in terms of traffic, noise, and number of patients\clients cared for. The facility shall also be compatible with its setting in scale, material and design.
- B. Each applicant must submit a description of its purpose and patient\client group.
- C. All care\nursing homes must connect to public water\sewer.
- D. The site of the care\nursing home must conform to the following requirements:

LOT AREA: 500 square feet per person.
FRONTAGE AND YARDS: Same as in Residence zone which determines the lot area.

(Section amended effective 5/1/97)

44.08.30 BED AND BREAKFAST USES

- A. The facility must connect to public water and sewer.
- B. The size of the bed and breakfast must conform to the following requirements:

BED AND BREAKFAST LOT AREA: 2,000 square feet per rented room.

FRONTAGE AND YARDS: Same in Residence zone which determines the lot area.

In order to limit the intensity of the use in an RPZ zone this use is restricted to legal lots of record with less than 10,000 square feet and further the home must be owner occupied and of a bed and breakfast character, as defined below.

Bed and Breakfast Character is defined as: An owner occupied private residence containing no more than five (5) guest rooms with a maximum of two persons per room for lodging by pre-arrangement for periods not to exceed two (2) consecutive weeks and providing for only breakfast.

In order to maintain this character the following must be complied with:

- a.) The bed and breakfast must maintain the appearance of a residential dwelling.
- b.) The signage shall be kept to a minimum and in no case shall exceed 8 square feet.
- c.) All applicable state and local codes and ordinances must be complied with or the special exception use shall be revoked in accordance with Section 44.07 of this code, and

- d.) In order to insure compliance, the owners of such facility must annually, on or before February 1, obtain a permit from the Zoning Enforcement Officer. Prior to issuing said permit the enforcement officer shall request reports from officials charged with the enforcement of Health, Fire and Building Codes. Also the owner shall provide the ZEO with a written statement that he\she is in compliance with all Special Exception criteria.

(Section amended effective 6/5/09)

44.08.31 DELETED (Amended effective 5/1/97)

44.08.32 SOLID WASTE DISPOSAL FACILITY AND AREA

- (1) A solid Waste Disposal Facility or Area shall meet all requirements of the Connecticut Department of Environmental Protection:
- (2) The proponent shall submit the following information about the proposal:
- (a) The waste types and quantity to be handled at the facility and/or placed in the area;
 - (b) Ground and surface water conditions;
 - (c) Geology, soils, and topographic features;
 - (d) Transportation methods and routes to the areas;
 - (e) Procedures for leachate, gas and runoff control and for operation and monitoring of the facility;
 - (f) The social, geographic and economic impact of the facility or disposal on the contiguous neighborhoods;
 - (g) Potential nuisance conditions.
- (3) Solid Waste Facilities shall not be allowed over an aquifer or at any location where they might adversely affect an aquifer.
- (4) The Commission may require evaluation reports from relevant professionals, including but not limited to geologists, hydrologists, and soil scientists.

44.08.33 RETAIL SALES AND/OR RENTALS OF USED AUTOMOBILES

1. The site shall have a minimum frontage of 100 feet along a directly accessible state highway.

2. The site shall have a minimum area of 18,000 square feet.
3. In the event that abutting land(s) shall have building(s) thereon used for residential purposes, the facility shall be screened by appropriate plantings or fencing so as not to be visible from said building(s).
4. Automobiles shall be parked or stored on the site no closer than ten feet to any property line.
5. The facility shall be lighted in such a fashion that illumination is not directed onto abutting properties.
6. There shall be no use of an exterior sound system or paging system on the site.
7. It is the specific intention of this special exception that the use of the property as a used automobile retail sale and/or rental facility not be the first use of property for such purpose(s) within the general neighborhood. Accordingly, before any special exception may be granted, there must exist within a one-half mile radius of the property lines of the property a facility which sells used automobiles and/or rents automobiles to the general public.
8. In order to limit the intensity of this use, there shall be no more than eight (8) cars displayed for sale on the site at any given time. (Revised effective 2/1/92)

44.08.34

VETERINARY HOSPITALS / PRACTICE

- 1.) The site shall have a minimum of five (5) acres.
- 2.) The facility shall be lighted in such a fashion that illumination is not directed onto abutting properties.
- 3.) The location of the facility shall be compatible with the neighborhood in terms of traffic, noise and number of animals cared for. The facility shall also be compatible with its setting in scale, material and design.
- 4.) Noise and other possible disturbing aspects Connected with the operation of such use shall be enclosed, screened or otherwise controlled to the extent that the operation of any such use shall not

unduly interfere with the use of properties or streets in the surrounding area. (Added effective 7/11/90)

44.08.35 CLUSTER DESIGN TO PRODUCE OPEN SPACE SUBDIVISIONS

A. PURPOSE

The purpose of the open space subdivision provision in the Zoning Code is to encourage and allow for creative and more flexible site planning and building placement and more efficient and economical land development. Furthermore, the provision is designed to provide for greater open space preservation and the preservation and/or conservation and enhancement of the sites existing natural features and resources.

As a means of achieving the above stated purpose, variations in the existing regulations may be allowed. The following regulations and requirements may be varied or reduced:

- 1.) lot frontage (max 50% reduction);
- 2.) lot area (max 50% reduction)
- 3.) lot shape requirements;
- 4.) yard and setback requirements (max 50% reduction);
- 5.) maximum length – dead end streets (no greater than 2000 feet);
- 6.) sidewalk requirements.

B. PROCEDURE

Applicants proposing open space subdivision are strongly encouraged to meet with the Director of Planning and/or the Environmental Planner to discuss which type of subdivision (open space or conventional) would be the most suitable for the area and consistent with the purposes of the City's regulations.

However, if the applicant proceeds with the open space subdivision option the Commission expressly

retains the right to make the determination as to which type of subdivision would be the most suitable for the area and consistent with the purposes of these regulations.

Upon formal application to the Planning and Zoning Commission and a public hearing thereon, the Commission may grant special exception approval and subdivision approval of an open space subdivision.

In addition to the general special exception criteria in Section 44.04 of the Zoning Code, the Commission shall find, when applicable, the following:

- 1.) the specific purposes of the cluster design are being achieved;
- 2.) any and all impacts on natural environmental systems such as wetlands, aquifers, watercourses and vegetative and wildlife communities have been minimized;
- 3.) there exists the presence of land characteristics which the commission considers favorable for development of an open space subdivision;
- 4.) the proposal will provide for future park and recreational areas including hiking trails;
- 5.) the proposal will not provide for buildings whose silhouettes interrupt the natural, unbroken flow and character of Middletown's ridgelines;
- 6.) to the maximum extent possible the proposal shall minimize excessive and poorly planned grading for streets and building sites; and;

- 7.) the proposal will preserve and protect the city's natural environment by encouraging the permanent preservation of specific features and lands which, in turn, contribute to the stabilization and enhancement of residential amenities and values and the maintenance of the City's and the particular areas existing character.

C. REQUIREMENTS:

Plans and supporting materials shall be presented for the entire tract containing the information as specified in Section 4 of the Subdivision Regulations. The design of the open space subdivision shall be effectuated by a registered professional group of the following, but not limited to, Landscape Architects, Engineers, Land Surveyors, and environmental professionals. In addition to the requirements in the Subdivision Regulations, formal submission of the proposal shall include the following:

- 1.) a city topography map for the area with the properties boundaries superimposed and highlighting areas exceeding 15 % slope, inland wetlands, flood zones, heavily wooded areas and other significant natural or man-made features of the land;
- 2.) a concept plan on the "Topographic Maps of Middletown, Connecticut, Showing Drainage Systems and Inland Wetlands Superimposed" showing how the property could be realistically developed using the conventional method of subdivision design;
- 3.) A landscape plan for the entire development showing all features such as streets, sidewalks, trails, entrance structures, recreational facilities, etc. and sealed by a registered Landscape Architect as defined in Section 20-367 of the Connecticut General Statutes, Paragraph (3);
- 4.) A statement outlining the reasons why the developer believes that the intent of this

regulation would be, or not be, satisfied by development as an open space subdivision.

D. STANDARDS:

1. The tract to be developed shall be not less than ten (10) contiguous acres and must be in a zone having an R prefix.
2. The tract shall be in a single ownership or consolidated into a single tract by a number of different owners by means of a binding agreement which will ensure the uniform treatment and implementation of an overall open space subdivision for the entire tract from the time of application and continuing thereafter.
- 3.) The frontage of the entire tract on an existing street must be at least one hundred (100) feet. (Amended effective 6/13/03)
- 4.) To provide a buffer between a open space subdivision and surrounding properties, no structure shall be located within 30 feet of the overall perimeter boundary. The buffer area shall adhere to the standards in the Subdivision Regulations.
- 5.) Proposed buildings shall be related harmoniously to each other, the terrain and to the use, scale and proportions of existing buildings in the vicinity that have a functional or visual relationship to the proposed buildings. The Planning and Zoning Commission may require that buildings be located at the edges of existing fields and open areas and within wooded areas so as to preserve the open character of a site.
- 6.) The total number of building lots in a open space subdivision shall be no greater than the number displayed on the concept plan (as required in Standards #2) displaying how the property could be developed with a conventional subdivision. The Commission

retains the right to exclude lots from the concept plan, which they feel are undevelopable. However, the commission may permit a reasonable density bonus equal to a percentage (5 % minimum) of the amount of lots derived in the lot credit calculation provided the required open space is increased by the same percentage.

EXAMPLE: A twenty (20) lot open space subdivision with the required 33% open space can derive one (1) additional building lot (5% of 20 lots) provided the required open space is increased to 38%.

- 7.) Where possible and in conformance with the Plan of Development, public water and sanitary sewers are preferred. The applicant may use private well and septic systems or community septic systems if approved by the Health Director if it can be shown that the soils shall be suitable for long term disposal of sanitary waste effluent.
- 8.) Areas to be preserved and established as open space are to be in accordance with Section 5.17 of the Subdivision Regulations. In addition, land designated as "Open Space" in an open space subdivision shall: a.) equal not less than thirty three (33%) percent of the total tract; b.) not include any storm water detention or retention structures; and c.) be linked with all building lots within the tract by pedestrian walks.

E. SIGN CONSIDERATIONS:

The purpose of this section is to provide some guidelines for designing an open space subdivision over and above the regulations of the Zoning Code and the Subdivision Regulations.

The developer shall develop a design that portrays an interrelationship of the type of activity (residential and open space), the circulation (street and pedestrian paths), and the physical forms (residences and natural features) constituting the development.

The developer in order to produce an aesthetically pleasing design shall consider the following:

- A. Eliminating constant front yard setbacks (staggering front yards instead) to avoid monotony; provide for a variegated character of the neighborhood.
- B. Providing for scenic vista protection;
- C. The provision of common driveways to reduce the amount of required site clearance and regarding.
- D. Utilizing open area such as fields and meadows by integration of the same in the spatial design of the development;
- E. Providing for artistically designed open space furniture and fixtures;
- F. Providing for pedestrian paths, walking and exercising, with safety and handicapped accessibility in mind;
- G. Providing for protection of watercourses but designed as an integral part of the development;
- H. Providing for effective buffering, but not obstructing scenic views;
- I. Providing for maximum use of natural light and solar capabilities;
- J. Providing for the maintenance of the visual integrity of hilltops and ridgelines by siting development so that building silhouettes will be below the ridgeline or hilltop or if the area is heavily wooded, the building silhouette will be at least 10 feet lower than the average canopy height of trees on the ridge or hilltop;
- K. Create and maintain the concept of a New England green or "commons" area within the site.

This is an informative list only. The effective designer can produce much more. (Added effective 6/1/92)

44.08.36 LARGE LOT ENVIRONMENTALLY SENSITIVE SUB-DIVISIONS WHICH ALLOW PRIVATE ROADS

A. DEFINITION:

A Large Lot Environmentally Sensitive Subdivision (LLES) is a Subdivision with private roads in the R-45 and R-60 zones, and in the R-30 zones only where R-45 zoning is required due to water and sewer requirements and in the R-1 zone next to an R-30 zone (see section 21.05). A LLES shall consist of no more than 20 lots all of which meet all zoning and subdivision regulations with the exception of the specific provisions as articulated in this section.

(Section amended effective 11/15/2000)

(Section amended effective 01/26/2015)

B. PURPOSE:

The purpose of the LLES provision in the Zoning Code is to encourage and allow for creative and more flexible site planning and building placement and more efficient and economical land development. Furthermore, the provision is designed to provide for greater open space preservation and the preservation and/or conservation and enhancement of the sites existing natural features and resources.

As a means of achieving the above stated purpose, variations in the existing regulations may be allowed. The following regulations and requirements may be varied or reduced:

- 1.) lot frontage (max 50 % reduction);
- 2.) lot shape requirements;
- 3.) rear yard setback requirements (max 50 % reduction);
- 4.) max. length –dead end streets (no greater than 2000 ft);

The primary objective of the LLES is to allow a more environmentally sensitive approach to conventional land subdivision by allowing for the provision of private roads in the outlying rural sections of the city.

C. PROCEDURE:

The applicant shall follow the procedure as outlined in Section 44.08.35 of this Code. In addition to the general special exception criteria in Section 44.04 the Commission shall find that the proposal satisfies the criteria as listed in Section 44.08.35 Procedure with the exception of #1. In addition the Commission shall find that the specific purpose and design objectives of the LLESS are being achieved.

D. REQUIREMENTS:

The requirements for this proposal shall be those as articulated in Section 44.08.35 Requirements of the Zoning Code.

E. STANDARDS:

In addition to standards 2, 3, 4, 5, 6 in Section 44.08.35 Standards of the Zoning Code, the applicant shall adhere to the following:

- 1.) The tract to be developed shall not be less than ten (10) contiguous acres and must be in the R-45 or R-60 zone, and in the R-30 zones only where R-45 zoning is required due to water and sewer requirements and in the R-1 zone next to an R-30 zone (see section 21.05)
(Section amended effective 11/15/2000)
(Section amended effective 01/26/2015)
- 2.) Areas to be preserved and established as open space are to be in accordance with Section 5.17 of the Subdivision Regulations. In addition, land designated as "Open Space" in an LLESS shall a.) equal not less than fifteen (15%) percent of the total tract, and; b.) be linked with all building lots within the tract by pedestrian walks.
- 3.) In order to insure fire safety residential sprinklers, as reviewed and approved by the Fire Chief for the particular district in which the subdivision is located, are required in all homes located within an LLESS.
- 4.) Private roads

- (a) The City of Middletown roads and walkway specifications shall not apply to this subdivision provided that the notices set forth in Exhibits A & B are within the Declaration of Covenants and Restrictions and affixed to the subdivision map. Further, the composition of such roadways shall be set forth in a narrative form by a registered engineer at the time of submission and such engineer shall certify to the Commission that such composition is a satisfactory composition for the subdivision as submitted.

EXHIBIT A

“The roadways are to be maintained by the Association. Middletown Fire and Police Departments strongly direct that the Association maintains these roadways for in the event that such Departments could not reach the site of an emergency because of improper maintenance, the responsibility of such failure would not be that of the Police or Fire Departments but rather the Homeowners Association.”

EXHIBIT B

The roads shown hereon and designate as (street name) will be private roads to be owned and maintained by the adjacent property owners or an Association of such owners. The City of Middletown will not take ownership nor maintain these roads unless and until they are improved to meet the requirements of the City at no cost to the City.

- (b) Private street construction shall be sufficient to safely and adequately carry potential future traffic, which shall be determined on the basis of land areas to be served. The subbase shall consist of

gravel, at least 12" in depth after compaction, constructed on the prepared subbase. The gravel shall consist of sound, durable particles of bank or crushed gravel, free from soft, thin, elongated or laminated pieces and vegetable or other deleterious substances. The gravel shall meet grading "A" requirements (Conndot Form 813). The gravel shall be spread on the prepared subgrade and shall be bladed, dragged and scraped to conform to the required cross-section. All areas of segregated coarse or fine material shall be corrected or removed and replaced with well-graded material. On all road sections with grades less than 5% a base shall be placed upon the subbase of at least 3" after compaction of processed aggregate. It shall be added to the 12" bank run gravel subbase. Said processed aggregate to meet Connecticut DOT material standard for processed aggregate. All road sections in excess of 5% shall receive a bituminous surface treatment to prevent erosion of the surface. Bituminous materials shall be selected from the following grades: Asphaltic Cutback MC-70 or MC-800; Tar RT-2, RT-4, or RT-6. The type of bituminous material to be used will depend upon the character and condition of the surface to be treated, and the season of the year in which the work is done. The bituminous material shall be applied at the rate of 3\4 gallon per square yard. Sand cover shall be spread to provide uniform application in an amount sufficient to prevent the bitumen from seeping off the surface. When the surface is in satisfactory condition, it shall be swept clean of all sand and foreign material and the second application of bituminous material shall be made at the rate of 1\4

gallon per square yard. Gravel shall be spread on the bitumen and rolled with a power roller weighing not less than 10 tons. The gravel for this surface treatment shall meet the following Grading Pass 1\2" 100%. Pass 3\8" 85-100%, Pass No. 4 5-30%, Pass No. 8 0-10%, Pass No. 100 0-1.5%.

Installation of the private road surface can be subject to inspection by the Department of Public Works and certification by a professional engineer licensed to practice in the State of Connecticut.

The minimum width of such roadways shall not be less than 18 feet.

F. DESIGN CONSIDERATIONS:

The design considerations that shall be considered for a LLESS are those articulated in Section 44.08.35 Design Considerations of the Zoning Code. (Added effective 6\1\92)

44.08.37 LEAF COMPOSTING AREA

- (1) A leaf composting area shall meet all the requirements of the Connecticut Department of Environmental Protection.
- (2) The proponent shall submit the following information about the proposal:
 - (a) Estimate of the volume of leaves to be handled at site, including the approximate number of trucks exiting and entering the site daily;
 - (b) Facility site criteria, including acreage, drainage & slope;
 - (c) Site constraints, including name of adjoining properties, wells, septic systems, wetlands, flood plains, ground and surface water, and depth to bedrock;
 - (d) Explanation of the compost pad design and construction;
 - (e) Transportation routes, access and egress to site;

- (f) Methods for drainage, erosion and sedimentation controls;
 - (g) Methods for wetting of the leaves;
 - (h) Procedures for operation and management of the facility;
 - (i) Hours of operation for the area;
 - (j) Potential nuisance conditions and procedures to mitigate such nuisances;
 - (k) Plan for use of the compost.
- (3) The Compost area will not be allowed within 200' of surface water, 100' from the property line, 250' from neighboring buildings and shall have a minimum lot area of three acres. (Added effective 6/30/92)

44.08.38 ADAPTIVE REUSE OF A STRUCTURE FORMERLY USED AS A PLACE OF CONGREGATION FOR MEMBERS OF A RELIGIOUS FAITH

Existing buildings used primarily as a place of congregation for members of a religious faith and having a minimum square footage of 2,000 square feet upon termination of their use as a place of congregation for members of a religious faith may by special exception be used for professional offices. Said structures are more commonly referred to as: churches, temples, synagogues and meeting halls.

(Added effective 5/20/94)

44.08.39 MODIFICATION OF FRONTAGE AND AREA REQUIREMENTS ON LOTS ESTABLISHED SUBSEQUENT TO 1982

In order to allow for more flexibility and compatibility with existing lots in the development of land in an R-1 Zone located within 1,000 feet of other developed lots or subdivisions, the Commission may grant a Special Exception to allow new lots and subdivisions to be developed with new lots having substantially similar frontage area and yard requirements as existing lots, subject to the following conditions:

1. Proposed new lots or new subdivision shall be within 1,000 feet from the boundary of the existing lots or subdivision, the frontage, yard or area of which are

being used to determine the frontage, yard and area of the proposed new lots or subdivision.

2. Proposed new lots must have both City water and sewer.
3. No new lot shall have a frontage of less than fifty (50) feet nor an area of less than five thousand (5,000) square feet.
4. In the case of any subdivision or resubdivision of land, open space, either to be deeded to the City or to be owned and maintained by a homeowners' association, shall be no less than 40% of the land being subdivided or resubdivided.
5. The layout and design of lots, roads and open space within any new subdivision shall be compatible with the design of lots, roads and open space in the existing subdivision within 1,000 feet thereof which is being used as the basis for the requested modifications.
6. In the case of any new subdivision or resubdivision of land, application may be simultaneously for the Special Exception set forth herein and for Subdivision Approval under the Subdivision Regulations of the City of Middletown. (Added effective 4/30/95)

44.08.40 GOLF DRIVING RANGES AND MINIATURE GOLF COURSES

- a. The site shall have a minimum of three (3) acres for each recreational use;
- b. Each use shall be lighted in such a fashion that the illumination is not directed onto abutting properties;
- c. The location of each use shall be compatible with the neighborhood in terms of traffic, noise and number of people permitted to participate in the sport at one time. Each use shall also be compatible with its setting in scale, material and design;

- d. All the other possible disturbing aspects connected with the operation of each such use shall be enclosed, screened or otherwise controlled to the extent that the operation of any such use shall not unduly interfere with the use of properties or streets in the surrounding area;
- e. Parking for the miniature golf course shall be minimum one space for each hole;
- f. Parking for the driving range shall conform with Section 40.04.21 of this code;
- g. The driving range shall be compatible with its setting in scale, material and design;
- h. The dimensions of the raised tees will be such so as to create maximum safety for users; and
- i. Signs for each use shall be no greater than 100 square feet. Sign space may be combined for both uses on a single sign. Each sign may be free-standing or on a building. Each sign may be externally or internally illuminated. (Added effective 2/10/95)

44.08.41 LANDSCAPE & GARDEN CENTER

- 1. The site shall have a minimum of two (2) acres.
- 2. The location of the facility should be compatible with other surrounding businesses that may also include some retail sale of goods on site.
- 3. The facility and grounds should strictly adhere to the site plan approved by the commission.
- 4. Vehicles, equipment and materials should be properly screened or enclosed.

5. Parking should adhere to regulations as set forth in Section 40.04.04.
6. Herbicides, pesticides, fertilizers, or other chemicals must be stored as not to create a public health nuisance or a source of pollution to either air, water, or soil in accordance with the Health Department regulations and Connecticut Public Health Code.
(Added effective 1/31/97)

44.08.42 CORPORATE OFFICE/HIGH TECHNOLOGY PROCESSING OF PREVIOUSLY MANUFACTURED PARTS

1. The location of the facility shall be on a site of no less than eighteen (18) acres.
2. Traditional manufacturing shall not be permitted, e.g., conversion of raw materials to finished product.
3. The facility shall be the corporate headquarters (i.e., executive) and administrative offices shall be an integral part of the facility) for the operator and owner of the facility.
4. The facility shall be compatible with its setting in scale, material and design and shall not include any outdoor storage of materials or supplies.
5. The facility shall be connected to municipal sewer and waterlines.
6. The facility shall not produce noise from the processing conducted therein which is detectable by objective measurement in excess of decibel levels permitted by State law beyond the perimeters of the site. The facility shall not emit any smoke or fumes or discharge effluent other than those, which may be associated with a corporate office building (i.e., heating and air conditioning, automotive exhaust and storm water);
7. The use, storage or disposition of solid or medical waste, materials shall be prohibited.

8. In order to maintain a parklike setting, forty (40%) per cent of the site shall remain in a pervious and vegetated state.

(Section added effective 7/3/98)

44.08.43 ACTIVE ADULT HOUSING

A. PURPOSE:

Active adult housing is intended to provide housing of a type and density suitable to the needs of those 55 and over. This provision recognized housing for those age 55 and over as having less impact than other higher density housing options, and therefore meriting separate consideration.

The burden of complying with the Fair Housing Act, as amended and regulations promulgated there from shall be on the association of homeowners of such development.

B. PROCEDURE:

Upon formal application to the Planning and Zoning Commission and a public hearing thereon, the Commission may grant special exception approval for an Active Adult Housing development. In addition to considering compliance with the applicable special exception criteria in Section 44.04 of the Zoning Code and the standards contained herein, the Commission shall also consider the potential impacts of the proposed development on municipal services and the fiscal resources of the City. (Amended effective 4/30/04)

C. REQUIREMENTS:

Applications for approval of Active Adult developments shall include a master concept plan at scale no less than 1"-100' displaying the overall site, landscape, buffers, lighting, open space, sidewalks, building placement, pedestrian paths and trails, detailed site plans as required by Section 55 of these regulations and architectural renderings of the building and the overall community. In addition, applicants shall provide a professional market analysis demonstrating the need and feasibility of the project. Additionally, a narrative report shall be submitted which documents the probable impact of

the proposed development on municipal services and the fiscal resources of the City. (Amended effective 4/30/04)

D. STANDARDS:

1. The tract to be developed shall be zoned RPZ, R-15, or R-30, shall be not less than 10 acres, and shall have a minimum of 100 feet of frontage on a public street.
 - a. Waiver Provision for lots between 8-10 acres. Upon a separate and affirmative vote of the Planning and Zoning Commission the Commission may waive the above 10 acre requirement and allow the tract to be developed to be a minimum of 8 acres providing the following conditions are met:
 1. There is sufficient area to provide additional buffers where needed.
 2. The configuration of the tract allows for an orderly and functional layout for buildings, parking, and access.
 3. The Commission in its sole and legislative discretion determines the parcel is more suited to Active Adult than traditional single family home development. (Amended effective 11/1/05)
2. Residences are limited to single family detached or attached structures and shall include a basement and/or attic for storage. (Amended effective 3/5/18)
3. The proposed active adult housing development shall be a Common Interest Ownership Community as defined in Chapter 828 of the Connecticut General Statutes.
4. The site shall be served by public sewer and public water supply, both of which shall be capable of handling the demand, including hydrants sufficient for firefighting as

determined by the Fire Marshall, required by the development. All utilities, (electric, cable, phone) shall be underground.

5. The maximum number of units per acre is four. In computing the number of acres for the purpose of this section, 75% of the area designed as inland wetlands and 75% of the area of slopes in excess of 25% shall be excluded.
6. The minimum living area of each dwelling unit, inclusive of bathrooms and exclusive of hallways, shall be 900 square feet. The maximum number of bedrooms per residence is two.
7. Height, yard, and lot coverage requirements shall be as required in the underlying zone, except accessory buildings shall not exceed a height of 20 feet and total impervious coverage shall not exceed 40%.
8. The minimum distance between sidewalls of attached or detached residences shall be 20 feet. Where the distance between units is less than 24 feet, adjacent walls shall be angled to prevent parallel sidewalls. The minimum distance between rear walls of units shall be 40 feet. (Amended effective 3/5/18)
9. To provide a buffer between active adult developments and surrounding properties, no structure shall be located within 50 feet of the overall perimeter boundary. The buffer area shall adhere to the standards in the Subdivision Regulations and the first 30 feet shall be planted with a mixture of trees and shrubs. If a previously approved Active Adult development is expanded and the original 50 feet perimeter buffer is maintained, the expansion parcel perimeter buffer can be eliminated. The side yard setback however, shall be planted with a mixture of trees and shrubs. (Amended effective 3/5/18)

10. Thirty-three percent (33%) of the tract proposed for development shall be preserved as open space of which 50% of said open space shall be outside of areas designated as buffer area, inland wetlands or slopes in excess of 25%. The Commission may require the provision of a walking trail system within the proposed development. Unpaved walking trails may be counted as open space.

(Amended effective 3/31/06)

11. One hundred percent (100%) of the total dwelling units to be constructed in an Active Adult Community shall be designated as Active Adult Housing units. Occupancy of Active Adult Housing unit shall be limited to three (3) individuals and as follows:

- a. At least one individual must be aged fifty five years or older;
- b. Any and all spouses, companions or relatives of an occupant must be 21 years or order;
- c. Any occupant pursuant to (b) above who has ownership interest in the dwelling who survives the individual in (a) above;

- a. Any occupant pursuant to (b) above who has an ownership interest in the dwelling and the individual in (a) above has entered into a long term continuing care facility;
- b. Remaining parties pursuant to (c) (d) above who remarry or cohabitate must meet all occupancy requirements,
- c. A personal care attendant who is in service to a resident 55 years of age or older to attend to that resident's medical and/or health care needs,
- d. The management entity shall verify annually to the Zoning Enforcement Officer that the facility is in compliance with the occupancy requirements of this section.

12. Dwelling units designated, as Active Adult Housing shall have deed restrictions limiting occupancy as required above.
13. There shall be at least three (3) parking spaces per detached dwelling units and two (2) parking spaces for attached dwelling units. At least one of these spaces shall be provided within an
- 14.
15. attached garage. A minimum of 25% of the detached units shall have a two-car garage. The Commission reserves the right to require guest parking. All detached dwelling unit driveways shall have a minimum of 25 feet in length. All attached dwelling unit driveways shall have a minimum of 20 feet in length. Amended eff. 3/5/18)
16. A cash performance bond shall be filed prior to securing building permits. The developer may propose a phasing plan and post bond in accordance with said phasing plan.
17. Attached dwelling units shall not exceed 35% of total units. (Added eff. 3/5/18)

E. DESIGN CONSIDERATIONS:

The design considerations of Section 44.08.35, as appropriate to Active Adult developments, shall be considered by the applicant's design team.
(Section added effective 9/1/03)

44.8.44

INDOOR RECREATIONAL FACILITY

A facility where a fee is paid in exchange for activities, events, or programs related to athletics, physical conditioning and accessory activities conducted indoors. A facility may be approved by the commission if it meets the following conditions:

- A. That not more 40% of the parcel is used for the main building and accessory structures.
- B. Parking spaces will be provided in accordance with Section 40.04.28.

- C. Design Considerations: The Commission will evaluate the site plan and approve a facility that is designed to blend in with the existing buildings in the zone, if any.
(Added effective 10/13/06)

44.08.45 MIXED USE DEVELOPMENT SPECIAL EXCEPTION

Purpose – To allow mixed use development at an appropriate scale and architecture in relation to its surrounding which allows retail, upper story professional office, restaurants and upper story residential. No proposal shall result in the demolition of any inventoried building identified in the City of Middletown “A Survey of Historical and Architectural Resources-2005” prepared by the Greater Middletown Preservation Trust (Volumes I-IV). Any and all changes to any inventoried building shall be in keeping with its historic character.

Minimum lot size: ¼ acre per functional use

Minimum Frontage: 150 feet.

Front and side yards to be determined by Planning and Zoning during the design process.

Parking requirements shall be those required in Section 40 of this regulation. Upon written request, the parking requirements may be reduced if the Commission determines, after a review of a professionally prepared parking analysis that such reduction is in the best interest of the immediate neighborhood, the City of Middletown and the development and that the parking provided satisfies the anticipated demand. The Commission looks favorably on a shared parking method, where peak use and times for the different uses shall be calculated.

44.08.46 Data Center

The following standards shall apply to data centers:

(A) Building Facades visible from a City Street or Right of Way, shall avoid the use of undifferentiated surfaces by including at least two (2) of the following design elements: change in building height, building step-backs or recesses, fenestration, change in building material, pattern, texture, color, or use of accent materials. When a building has more than one façade visible from a City Street or City Right of Way, such principal building facades shall be consistent in terms of design, materials, details, and treatment.

(B) Screening of Mechanical Equipment. In order to minimize visibility from adjacent roads and adjacent properties, ground level and roof top mechanical equipment shall be screened. This screening may be provided by a principal building. Mechanical equipment not screened by a principal building shall be screened by a visually solid fence, screen wall or panel, parapet wall, or other visually solid screen that shall be constructed of materials compatible with those used in the exterior construction of the principal building.

(C) Exterior Lighting. All exterior lighting shall be designed and constructed with cutoff and fully shielded fixtures that direct light downward and into the interior of the property and away from adjacent roads and adjacent properties. (H) Buffer Yard Requirement. Any property that abuts a residential zone shall site the proposed data center in a manner to screen or buffer the data center by use of natural topography and preservation of existing vegetation, supplemented by new vegetation, if needed, with landscaped earthen berm. Advisory opinion from Design Review Board shall be submitted with site plan.

Added effective 6/22/15)

Uses

Require a minimum of two of the following uses: Retail, Restaurant, upper story professional office and upper story residential. The Commission reserves the right to limit the hours of operation for businesses'.

Design Requirements:

- No building shall be less than two (2) stories and the minimum height will be determined as an average of the height of the abutting structures. Maximum height is either the maximum allowed height for the zone where the development is located or 12 feet above the minimum height determined by abutting structures, whichever is higher. The Planning and Zoning Commission shall review and determine the allowed maximum height.
- The building(s) shall be oriented to the street or the intersection and shall front on a state highway, excluding limited access highway. Access to and from the site shall include access from the state highway, subject to approval by the State Department of Transportation. If available access from local roads shall be

- minimized and designed to direct traffic to the nearest signalized intersection with the state highway and away from residential areas.
- Utilize existing and surrounding building lines and materials, to the extent possible.
 - Bike racks shall be required as part of the development and be sited near business entrances.
 - Pedestrian amenities shall be considered and may be required, such as benches or public art.
 - Natural features shall be enhanced, preserved and incorporated into the development to the extent possible. Large trees shall be preserved to the extent possible.
 - Street trees with a minimum caliper of 4.5 inches DBH and at least 20 feet in height shall be planted every 25 feet within the street right of way.
 - Parking shall be oriented to the rear or side of the structure. Parking may be allowed between the front of the structure and the street if this design can increase pedestrian activity and the parking stalls are placed along the building.
 - Required parking areas shall be broken into small groupings of parking as opposed to one contiguous lot and the parking shall be aesthetically landscaped and screened from all areas in a manner that is compatible with its surroundings. Screening could include, but not limited to, stone walls, brick walls, fencing, landscaping, earthen berms or a combination thereof. Where possible, based on underlying soils, parking areas shall be composed of pervious materials.

TRAFFIC IMPACTS – Uses subject to this Section of the Zoning Code shall be subject to the following: Submission of a traffic impact analysis by a CT licensed professional engineer containing present roadway conditions, existing roadway capacity, existing and projected traffic volumes (ADT, Peak A.M. and Peak P.M.), existing and projected volume capacity ratios, existing and projected levels of service, existing and proposed sight lines, site generated traffic distributions, traffic accident experience, and all on-and-off site improvements which will help mitigate anticipated traffic problems and direct traffic to the state highway and away from abutting residential areas. The Commission specifically retains the right to request that the developer pay an additional fee to allow the Commission to hire an independent traffic engineer.

SIGNS – In addition to Section 48 of this Code the following more restrictive standards shall apply:

A. Attached Wall Signs: the number of signs shall not exceed three (3) and the sum of the area shall equal one (1) sq. ft. per lineal foot of building

frontage and no sign shall exceed 200 sq. ft. in a multi-tenant building. Each tenant is allowed one (1) wall sign equal to one (1) sq. ft. per lineal foot of store frontage and no sign shall exceed 100 sq. ft.

B. Detached identification Signs: Detached and free standing signs are prohibited with the exception of directional signs deemed appropriate by the Design Review and Preservation Board. Monument signs approved by the Design Review and Preservation Board may be allowed.

C. Temporary Signs: No temporary signs or banners are permitted with the exception that temporary banners, balloon signs or pennant signs advertising a special event may be issued by the Zoning Enforcement Officer for not more than ten (10) consecutive days.

CONSOLIDATED PARCELS – For the purpose of integrated development, any number of contiguous parcels may be consolidated for the purpose of development, and the consolidated parcel shall be construed to be one lot when computing building coverage and yard requirements, and permitted uses, provided:

A. The owner of each lot shall give to the owner of each lot in the consolidated parcel by deed, easement, or agreement filed in the Office of the Town Clerk, the right of entrance, exit, passage, parking and loading.

B. The consolidated parcel is developed with an integrated plan of buildings, curb cuts, parking, loading and unloading and open space.

The Commission may consider shared parking arrangements for uses when the peak hours for individual uses differ.

ORDERLY TRAFFIC MOVEMENT – In the absence of consolidated parcels in order to assure future orderly vehicular movement onto the street by requiring shared points of ingress and egress between lots, the Commission may require vehicular cross easements as part of individual development plans and may waive or modify setback requirements to facilitate unified, well planned development.

MERCHANDISE AND MATERIALS STORAGE AND DISPLAY - No Merchandise shall be stored or displayed outside of the buildings.

AREAS FOR LOADING AND UNLOADING - Any lot developed shall provide adequate space for the loading and unloading of goods and

materials so located at the rear of the building so as to avoid conflict with vehicular movement and shall be adequately screened from sight.

DUMPSTERS - Shall be located at the rear of the building and shall be fully enclosed and screened from view.

ILLUMINATION – Interior and exterior lighting, including signs, shall not be of such intensity or located or directed in a way as to produce glare or discomfort on public streets or neighboring PROPERTIES. All lights shall be directed away from residential zones unless specifically designed to enhance a pedestrian linkage.

LANDSCAPING AND BUFFERING Between Residential USES and Zones – A landscaping plan which identifies the location of all landscaped islands and the types of species within the islands shall be submitted with the application material. In order to protect the integrity of residential zones, sufficient buffering shall be required when a property in this zone abuts a residential zone or a potential incompatible land use. Further, no access drive shall cross through, traverse or interrupt the required buffer area.

All screening shall take maximum advantage of existing natural topographical features and existing plantings. In approving any site plan for a new use which abuts a residential zone or use screening of one of the following types of buffering shall be required. The Commission shall exercise final determination of which option should be pursued:

- A. an earthen berm accompanied with a six (6) foot high evergreen planting on top of the berm.
- B. a six (6) foot high stockade fence on metal fence posts fixed in concrete footings with the side containing the posts facing the new development, accompanied with a six (6) foot high evergreen planting, at least four (4) feet in width, between such fence and the abutting residential use.
- C. an eight (8) foot high, six (6) foot wide protective planting strip in accordance with specifications established by the Planning and Zoning Department.

Accessory Uses

- Drive-thru business may be allowed on the site provided the following conditions can be met.
- The drive-thru is not located between the front of the building and the street.
- The business and drive-thru shall be a part of a structure containing multiple occupants and uses.

- The development shall conform to all of the requirements in Section 44.08.12A of these regulations.

Review Process

Prior to submission to the Planning and Zoning Commission, the development shall be reviewed by the Design Review and Preservation Board and their opinion and recommendations will be a part of the special exception process. (Added effective 3/30/13)

44.08.47 Redevelopment Design District

- 1. Purpose and Intent** – The Redevelopment Design District (RDD) was developed to foster high-quality redevelopment of Brownfields, old industrial sites, and vacant and/or underutilized properties and building that have outlived their useful life or have been adversely affected by perceived or actual environmental contamination. The intent of a Redevelopment Design District is to permit principal buildings and uses or groups of principal buildings and uses as a unified development on a single parcel or across contiguous parcels that have been combined for this purpose. The regulation permits flexibility from underlying zoning requirements through the creation of a redevelopment design district overlay zone and a special exception/site plan approval with an emphasis on high quality development that will remediate contamination, remove blight, and add value while assuring that all projects reflect a quality aesthetic that enhances the character of the City/neighborhood. Redevelopment Design Districts shall inspire a more harmonious relationship between the development, the parcel(s), and the surrounding area than is possible using underlying zoning regulations, promote access to services and transportation, protect the character of the community and abutting parcels, and foster thoughtful site design. In addition, it is the purpose of this regulation to:
 - a. Revitalize parcels with development that will provide for a variety of housing and business opportunities.
 - b. Invigorate industrial parcels into distinctive residential, retail, and/or service establishments.
 - c. Encourage smart growth and low-impact development.
 - d. Provide for sustainability and resiliency.
 - e. Promote the development of human-scale neighborhoods, preferably in walking distance of public transit.
 - f. Assist the City of Middletown to comply with the State Zoning Enabling Act, Connecticut General Statutes § 8-2, by adopting zoning regulations that promote economic diversity and housing choice.
 - g. Ensure high quality site planning, architecture, and landscape design that is consistent with the surrounding neighborhoods and the distinct visual character of the historic structures in Middletown.
 - h. Establish development standards that ensure context-sensitive design and creative site planning in the reuse of existing buildings, and construction of new buildings.
 - i. Notwithstanding approval of a Redevelopment Design District, the requirements of the underlying zone shall continue to apply if a project approved as a Redevelopment Design District is not constructed within statutory timeframes.

2. **General Concepts** – The RDD is an optional development that may be permitted in lieu of a standard development under the requirements of the underlying zone via zone change, special exception and site plan approval. The RDD regulations promote careful attention to the design and aesthetics of buildings and site development features with special consideration given to insure that surrounding areas and neighborhoods are not negatively impacted. The establishment of commercial, residential and mixed land use patterns must accomplish the stated purpose of the regulation. The successful applicant will present plans with features and amenities that are supportive of, and complimentary to the proposed uses and consistent with the City’s Plan of Conservation and Development. It is the express intent of these regulations to provide a framework for development proposals through the statement of use and design while offering the applicant flexibility to fit market demand and existing site conditions.
3. **Required Primary Parcel Characteristics** – The RDD must be located on parcels designated as brownfields of former brownfields, grayfields, contain blighted structures, and/or consist of vacant and/or underutilized parcels. Such vacant and/or underutilized parcels shall contain either: 1) vacant or underutilized industrial buildings or groupings of buildings, or 2) vacant parcels that have, or have previously contained vacant or underutilized buildings or groupings of buildings. The RDD regulations may not be used to develop greenfields, open space, or any other area that has not been previously developed, unless the development of such spaces is a Secondary Parcel (described below). The primary parcel, whether or not combined with other parcels, must exhibit one or more of the aforementioned characteristics.
4. **Pre-Application Discussion** – Applicants are encouraged to participate in a pre-application meeting with City staff or with the Commission as provided for in accordance authorizing State Statutes (CGS 7-159b as may be amended), to discuss the conceptual design and physical attributes of a proposed development. Applicants are also encouraged to engage the State Department of Transportation and/or the Office of the State Transportation Administration in the early stages of the development process where a State Traffic Certificate will be required.
5. **Where Permitted** – The RDD shall be permitted any zone where the applicable characteristics exist. Limited consolidation with parcels that do not exhibit the required characteristics may only be permitted as specified below.
 - a. **Parcel Consolidation** – The consolidation of contiguous parcels may be necessary to meet the minimum area requirements of the regulations.
 1. It shall be acceptable to consolidate adjacent parcels in order to provide the minimum required parcel size and/or to accommodate a larger unified development. There shall be established one primary parcel that qualifies as having the desired parcel characteristics. That parcel shall be deemed the “Primary Parcel” for the purposes of consolidation.
 2. Secondary parcels used in combination with the primary parcel may have any property history including residential, and may be located in any zone.
 3. Any such secondary parcel used in combination with the primary parcel shall be combined in fee to insure a consistent development.

6. Permitted Uses

- a. **Primary Uses** – The following uses shall be permitted in the Redevelopment Design District.
 1. Commercial and mixed uses in accordance with Subsection 8.
 2. Residential uses in accordance with Subsection 9.
 3. Industrial uses on sites located in Industrial Zoning Districts only in accordance with subsection 10.
- b. **Accessory Uses** – In addition to the primary structures, accessory structures designed in accordance with these regulations may be permitted as follows but only if shown on the approved site plan:
 1. Storage buildings necessary for the maintenance of the facility
 2. Fences
 3. Residential decks
 4. Outdoor dining and gathering areas
 5. Community amenities such as club house, swimming pools, pet areas, walking trails, and game courts
 6. Parking necessary to support the proposed use
 7. Parking structures meeting the requirements of this section
 8. Signage as permitted in the underlying zone
 9. Outside storage in Industrial zones shall only be permitted to the extent that it is allowed in the underlying Industrial Zoning District.

7. **Bulk Requirements** – With the exception of the bulk requirements for the B-1 Zone, which shall be as required in accordance with the zoning regulations for the underlying Zone, the following bulk requirements are deemed to be the minimum allowable in the Redevelopment Design District.

Parcel Size – Minimum	Three acres (may include primary and secondary parcels)
Frontage – Minimum	Sufficient to provide safe access
Building Coverage - Maximum	40% but may be increased to 70% if structured parking is provided; however, this standard shall not be applicable to the B-1 Zone
Site Coverage - Maximum	70% including all impervious surface area; however, this standard shall not be applicable to the B-1 Zone
Landscape Requirement - Minimum	30% of entire site and may be used to provide stormwater management; however, this standard shall not be applicable to the B-1 Zone
Front Yard Setback - Minimum	24 feet, but may be reduced to 5 feet to maintain streetscape harmony with adjacent buildings; however, this standard shall not be applicable to the B-1 Zone
Side/Rear Yard Setback - Minimum	8 feet; however, this standard shall not be applicable to the B-1 Zone
Building Height - Maximum	60 feet (excluding façade, parapets or screening), however, this requirement shall not be applicable to the B-1 Zone
Residential Density - Maximum	20 units per acre, based upon satisfaction of parking, landscaping, and stormwater management requirements, however, this requirement shall not be applicable to the B-1 Zone

Commercial Density - Maximum	Based upon satisfaction of parking, landscaping and stormwater management requirements
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- 8. Commercial and Mixed-Use Development** – The applicant may propose commercial and/or commercial/ residential mixed use:
- a. Residential space shall conform in type and unit size to that described in the section 9.
 - b. No single commercial end user shall occupy in excess of 12,000 square feet.
 - c. Commercial space shall occupy all at-grade street facing façades where projects are oriented within 10 feet of the street line.
 - d. Permitted commercial uses shall include:
 1. Retail, and restaurants, but not vape shops, hookah lounges, adult uses or package stores, pawn shops, or consignment stores.
 2. Personal services, but not tattoo parlors.
 3. Liquor sales in connection with food service establishments may be permitted to the extent that tables for food service shall comprise no less than 80% of the patron service area and no live entertainment shall be permitted. In deference to any residential component of the development, commercial operations shall submit a business plan detailing how such use will avoid detriment to the quiet and peaceful enjoyment of residents.
 4. Offices including, but not limited to general, medical, dental, financial.
- 9. Residential Development Only** – The applicant may propose a multifamily development in accordance with the following standards:
- a. Permitted residential uses shall include:
 1. Studio and One bedroom units shall be a minimum of 500 square feet gross floor area.
 2. Two bedroom units shall be a minimum of 700 square feet gross floor area.
 3. Three bedroom units shall be a minimum of 1,000 square feet gross floor area.
 4. Kitchen, bedroom, dining and living areas may be arranged in any manner to meet the requirements of this section.
 5. Rooming houses, group homes, save those permitted by State Statute (CGS 8-3e, f, and g, as may be amended).
- 10. Industrial Development** – the applicant may propose industrial development within existing industrial buildings, or new construction on former industrial sites in any Industrial Zone where it can be adequately demonstrated that the industrial use is compatible with surrounding uses and commercial and/or residential uses are not compatible with surrounding used based upon the following set of directives:
- a. Property contamination is such that remediation is not cost effective and any other use is impermissible or undesirable.
 - b. Such industrial use is re-use is compatible with the surrounding area.
 - c. Such use would not imply any greater impact to the property or the surrounding properties than what would otherwise be permitted in the underlying zone.
- 11. Application Procedure/Approvals Required** – Within the RDD, a project may be proposed on a parcel or a consolidation of parcels meeting the prescribed parcel characteristics. The minimum standards for submittals are as follows:
- a. **Zone Change** – a zone change shall be considered in tandem with the special exception application and shall conform in every manner to the process as prescribed by these regulations.

- b. **Special Exception/Concept Plan** – A concept plan (18 copies) shall be required for approval of a special exception. The concept plan will demonstrate the viability of the redevelopment project without a full investment in engineered site details. The applicant may choose to obtain approval of a special exception prior to applying for site plan approval, or both approvals may be sought concurrently, in which case the site plan may be used as the concept plan, including required renderings. The concept plan shall graphically illustrate the spatial and physical layout of the proposed redevelopment. At a minimum, the concept plan shall include:
1. **A concept plan showing such features as:**
 - i. Survey of existing features such as buildings, parking, landscaping, topography and utilities
 - ii. Proposed building location(s)
 - iii. All on-site signage
 - iv. Landscaping elements including proposed buffers
 - v. LID features – proposed location and type
 - vi. Public spaces
 - vii. Parking and lighting
 2. **Elevation drawings of key features including:**
 - i. Building façades
 - ii. Public spaces
 - iii. Key building and site design elements
 - iv. At least one perspective rendering from a prominent viewing angle
 3. **Project narrative to include:**
 - i. Applicant's interest in subject property
 - ii. Evidence of sufficient access to capital to successfully compete the project
 - iii. Project management team
 - iv. Zoning data including, but not limited to:
 - a. Existing historical and/or natural features
 - b. Zoning compliance statement for proposed development
 - c. If commercial mixed use, proposed tenant mix by type, area and use designations in tabular form
 - d. Parking compliance statement in tabular form
 - e. Phasing plans if applicable
 - f. Estimated project duration
- c. **Site Development Plan/Site Plan** – The site development plan (18 copies) shall be submitted and the plan approval process shall comply with all the requirements of these regulations and all other requirements described in the City of Middletown's regulations. In addition to applicable regulations found elsewhere in this regulation, an RDD shall comply with all standards found in this subsection.
1. The site plan shall be an accurate reflection of the conditions presented on the approved concept plan. Minor deviations from the concept plan may be approved administratively. Minor deviations may include:
 - i. Movement of a structure in any direction in an amount equivalent to 10% of structure width or length relative to the direction of movement so long as required yard and buffer regulations are not violated, and parking, landscaping, and/or LID requirements are not adversely impacted.
 - ii. Reduction in the size of a structure up to 10% of the gross approved area.

- iii. Any change in proposed use of 5,000 square feet or less that that does not increase impervious surface area or adversely affect parking ratios.
- iv. In all other instances, or where site circulation, aesthetics and overall design are concerned, the Commission shall be the sole authority as to whether any plan deviation is minor or significant. If deemed minor, the Commission may permit administrative approval.
- v. If deemed significant, the applicant may be required to seek a site plan modification and/or re-approval of the concept plan via special exception.

12. General Development Standards – Careful site planning is an essential element of the RDD. It is the express intent of these regulations to incentivize projects that do not result in conventional commercial or residential development. Rather, the regulations will require that development plans take into consideration the following factors:

- a. The project design for a mixed use project shall strive to incorporate a village theme into responsible, sustainable residential, commercial, or mixed-use development.
- b. Site design shall comply with the Design Requirements (herein) and take into consideration the functionality and importance of pedestrian and transit-friendly amenities as well as guiding building and site design.
- c. In mixed use projects, project design shall attempt to incorporate interior and/or exterior plaza or court features to serve as central gathering, dining and/or vendor spaces.
- d. The project design shall protect and promote significant historic or natural features and shall take into account structures of historic and/or cultural value.
- e. Low impact development techniques (LID) must be considered and incorporated into all development - redevelopment plans and all plans shall strive to manage stormwater on the site, providing opportunities for groundwater recharge and increased stormwater quality to the extent feasible given constraints such as high ground water, floodplains, and/or soil types.
- f. Landscaping and buffer design shall be incorporated in accordance with subsection 14.
- g. Projects meeting these goals will receive stronger consideration.

13. Design Requirements

All plans must first be submitted to the Design Review and Preservation Board, for review and consideration.

- a. The Design Review and Preservation Board shall apply the standards found within the City of Middletown Design Guidelines. All applicants are urged to consult the Design Guidelines to inform the development of plans. In general, applicants are urged to pay mind to the following guiding principles for new construction and renovations.
 - 1. For mixed use development, scale shall strive to be compatible with surrounding uses and shall relate to the human form.
 - 2. Massing of new structures shall be arranged in a manner that minimizes the appearance of a barracks, or row house style development.
 - 3. Excessive contiguous building surfaces shall be discouraged.
 - 4. Architecture should embrace creativity and ingenuity in design.
 - 5. Proportionality shall be considered. Spatial relationships between windows, doors, signs and other architectural elements shall be compatible with the architectural style of the building and its surroundings.
- 6. For building and freestanding signage, internally illuminated “can” lights are to be avoided in favor external or backlit “halo” type lighting.

7. For the purposes of these regulations, prototypical architecture is equivalent to signage.
8. Where applicable, roof shapes and pitches shall be compatible with or provide enhancement to, surrounding structures. Pitched roofs are preferred, but flat roofing may be considered to maintain the character of a specific area. "Green" roofs may be used to offset LID requirements on the ground.
9. Windows and doors shall be designed so that placement patterns maintain a balance, conveying a sense of continuity and unity.
10. Placement shall provide and strengthen a sense of unity with surrounding structures where applicable.
11. Fenestration shall take into consideration building views from all sides (Figure 1).

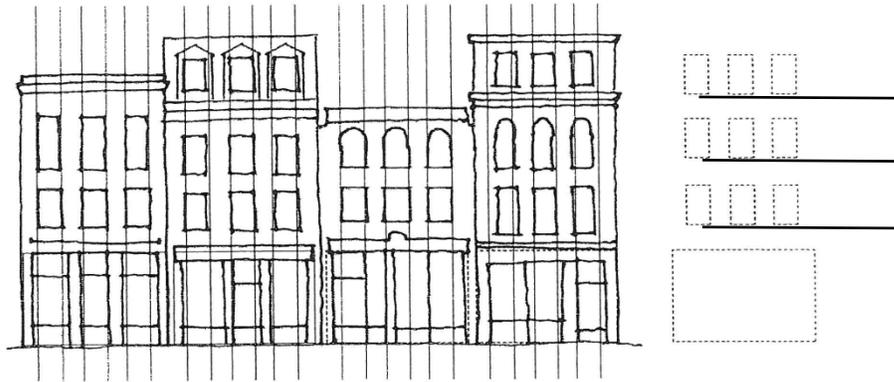


FIGURE 1

12. Mechanical equipment, utilities and dumpsters shall be screened from view from the public way from any angle or located underground.
13. For mixed use developments, loading docks and areas shall not be visible from public streets or from residential zones. All such facilities shall be designed as an integral part of the building, shall be suitably screened, shall not detract from the appearance of the building or site, and shall be accessible to all commercial areas within the building.
14. Dumpsters shall be screened so as not to be visible from public view. All dumpsters shall be placed on a concrete pad, appropriately screened with commercial grade opaque fencing, and maintained for the life of the project. The location and design of the screening/enclosure shall be shown on the Site Plan. Restaurant dumpsters shall be located a minimum of 50 horizontal feet from any residential use and shall be maintained and cleaned regularly to reduce odors, including the use of environmentally friendly chemical additives to combat odor.

14. Landscaping, Buffers and Screening - Landscaping shall be provided in accordance with this regulation.

- a. All development proposals shall be rich in native, non-invasive plant, shrub, and flower species selected to provide as natural and interesting a setting as can be achieved as well as providing for both winter and summer greenery.
- b. Plans shall be submitted to the Urban Forestry Commission.. UFC shall be consulted regarding the landscaping plan and comments from the UFC shall be incorporated into the plan to the greatest extent possible.

- c. Where the Commission deems that a reduction in the required front yard setback is beneficial to the project, required front yard landscaping may be reduced in kind, but shall not reduce the overall amount of landscaped area as required by these regulations.
- d. Landscape areas shall include vegetated buffers, screening, and low impact development elements used for creative stormwater management, except that no detention/retention basins shall be permitted
- e. within the required landscape area unless designed to mimic a functional and natural water feature, or as an aesthetically pleasing landscape focal point.
- f. Not more than 30% of such landscape area may be comprised of wetlands, watercourses, special flood hazard areas or slopes in excess of 25%.
- g. An area computation shall be provided in tabular form on the landscaping plan to confirm the appropriate makeup of landscaped area.
- h. In addition to the required minimum landscaped area of this subsection:
 - 1. Front Yard landscaping shall consist of at least 40% vegetated area comprised of turf, shrubs, mulch and at least one deciduous native tree species for every 50 feet of frontage. This requirement may be reduced where the commission requires a reduction of the front yard setback.
 - 2. Parking lot landscaping shall consist of one interior native deciduous shade tree for every 20 unstructured parking spaces.
 - 3. For every 1,500 square feet of disturbed/developed/redeveloped area, one tree and 3 shrubs shall be planted. The Commission may waive this requirement for mixed use development in urban settings, but shall maintain the need for street trees and non-structured parking areas.
 - 4. Buffers and screening at the site perimeter shall take into consideration adjacent uses and building mass in proximity to property lines. At a minimum, non-compatible uses shall be buffered from each other by solid vegetated buffers and/or opaque fencing and exposure to compatible land uses shall be softened through the use of strategically placed landscaping.

15. Parking

- a. Where feasible, parking structures shall be utilized. Any such parking structures, if so situated, shall incorporate street level façades.
- b. All other parking shall be provided in open lots and/or common or private garages.
- c. The view of open lot parking from streets and abutting properties shall be softened with landscaping and or structures.
- d. Parking shall be in an amount equivalent to that required for each separate use.
- e. If parking is to be combined for mixed uses, the applicant may avail themselves of percentage reductions of up to 30% of the required parking where it can be adequately demonstrated that offset peak parking demand exists. A report from a certified traffic engineer is required to demonstrate the applicability of the requested reduction.
- f. For developments with parking loads in excess of 100 or more spaces, a traffic report is required and shall be prepared by a certified traffic engineer. Such report shall include detailed information on the project's impact on and to the local street network as well as a review of levels of service and vehicular and pedestrian safety.
- g. Parking may be permitted in off-site lots when a project is located with the B-1 Zone.
- h. Parking spaces shall otherwise be provided in number and form as required under these regulations.
- i. Electric vehicle charging stations shall be required in an amount equivalent to the parking standards for the underlying zone.

- 16. Access Management** – The implementation of Access Management should focus on the following:
- a. Limit the number of access points.
 - b. Choose access locations that reduce conflicts within the development and on adjacent streets.
 - c. Encourage shared access between lots.
 - d. Consolidate access for contiguous lots.
 - e. Where possible, access locations shall be designed to be no less than 100 feet from intersections, unless aligned with a signalized intersection.
- 17. Storm-Water Management and Floodplain** – A storm-water management plan shall be submitted at the time of site plan application. Such plan shall utilize and follow the tenets of low impact development and storm-water management design.
- 18. Flood plain** – Any development within a flood zone as defined by FEMA as described on a Federal Insurance Rate Map (FIRM) must comply with all regulations and standards herein, or elsewhere in this zoning regulation or City Ordinance.
- 19. Phasing** – The applicant may wish to phase the redevelopment project and may do so under the following conditions:
- a. The applicant shall own all aspects of the project in fee simple, including proposed future phases.
 - b. Each phase must be designed in a manner that permits it to stand alone as a complete redevelopment project in the case that any approved future phases are not constructed.
 - c. Each phase shall comply with this regulation in its entirety.
 - d. Prior to the issuance of any certificate of occupancy by the building official, the applicant shall submit a financial guarantee in an amount and type satisfactory to the City of Middletown for any unfinished portion of any phase of an approved project.
- (Adopted 3/27/19 – effective 4/23/19)